

Steve Hamlen  
President

# United Utilities, Inc.

Affiliate of Unicom



July 15, 1997

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FCC

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: Petition for Reconsideration CC: Docket No. 96-45

Dear Mr. Caton:

Enclosed are an original and twelve copies of the Petition for Reconsideration in response to the Commission's Report and Order (62 Fed. Reg. 32862, June 17, 1997). An extra copy has been provided for ITS.

Sincerely yours,

cc: U.S. Senator Ted Stevens  
State of Alaska - Mr. John Katz  
Alaska Public Utilities Commission  
Alaska Telephone Association  
National Telephone Cooperative Association  
United States Telephone Association  
GVNW, Inc.  
Arter & Hadden (Attn: James U. Troup)

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Before the  
Federal Communications Commission  
Washington, DC 20554

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In the Matter of )  
 )  
Federal-State Joint Board on )  
Universal Service )

CC Docket No. 96-45

United Utilities, Inc. Petition for Reconsideration

United Utilities, Inc. (United) is a native owned local exchange carrier serving fifty-eight (58) small remote communities in rural Alaska. United has reviewed the Commission's Report and Order (62 Fed. Reg. 32862, June 17, 1997) (the Order). Herein United requests that the implementation of the Order be postponed until the Commission has completed the reform of its Part 36 Jurisdictional Separations procedures; until there is predictably that specific and sufficient Federal and State mechanisms will be available to preserve and advance universal service; and until the Commission has addressed the concerns raised by the Alaska Public Utilities Commission (APUC), National Telephone Cooperative Association (NTCA) and others petitioning for reconsideration.

Need for Part 36 Jurisdictional Cost Separations Reform

Sharon Nelson, a member of the Federal-State Board recently commented that:

"... the current high-cost fund rests on the separations process. Until that is sorted out, it's hard to see how individual states and companies will be affected by last week's universal service order" (State & Local Communications Report, May 16, 1997, page 6).

Brad Ramsey, assistant general counsel for NARUC was quoted that:

"... he believes that separations reform should have been the first step in implementing the Act because until costs are classified, "it's difficult to see how you can do anything right" " (Communications Daily (5/16/97), page 3).

The Commission's jurisdictional cost separations rules (Part 36) define what local exchange costs are assignable to the interstate and local jurisdictions. Implementation of the Act clearly requires reform of the Part 36 rules.<sup>1</sup> Part 36 reform is needed to bring access rates and universal service mechanisms in step with the changes already being implemented and planned for with Access and Universal Service reform. Without Part 36 reform local exchange access rates, local rates, and funding requirements for federal and state universal support mechanisms will be misstated.

A critical Part 36 separations issue that needs to be addressed concurrently with the implementation of changes in universal service is the elimination of the requirement that local exchange carriers "double" count local minutes while having to count toll minutes only once.<sup>2</sup> This double counting of local minutes overstates the amount of local switching minutes that are attributable to the state jurisdiction. The overstatement of the local switching minutes in turn incorrectly calculates the factor (DEM) that is used to allocate switching costs between jurisdictions and services. The end result is that: (1) IXC's continue to receive an implicit subsidy by understating interstate local switching rates in violation of Section 254(e) requiring "explicit" USF support; (2) it violates the Commission's policies requiring costs to be recovered in rates paid by the cost causer.<sup>3</sup>

GVNW Inc., a national consulting firm, has prepared a white paper (Exhibit 1) addressing the use of DEM and the double counting of local minutes. The white paper provides a history on how DEM came into existence and a sample DEM calculation demonstrating the understatement of interstate exchange access costs and the over statement of local costs when the Commission's existing DEM procedures are used. GVNW states the following:

"We are of the opinion that due to the elimination of implicit subsidies as required by the Act, that the double counting (emphasis added) of local minutes for digital switches could be construed a subsidy to interexchange carriers because the process understates interstate interexchange allocations" (emphasis added) (page 2).

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<sup>1</sup> The FCC in its Access Reform Order (cc: 97-158, released May 16, 1997) acknowledges that it needs to address jurisdictional cost separations reform (para. 223 and 224).

<sup>2</sup> See 47 C.F.R. @36.125(b). The DEM is "the minutes of holding time of the originating and terminating local switching equipment. . ." Thus, for an intra office all the local minutes of use are counted twice, once for originating and once for terminating.

<sup>3</sup> United raised this issue in its initial comments (page 8). The Commission's response was "We decline to consider this proposal because we conclude that further information regarding the effect of such a modification on the allocation of costs among the federal and state jurisdictions is required" (para. 303).

The Act (Section 254) does not envision long distance carriers receiving implicit support for access by underpricing local exchange switching costs. However, the Commission's actions will have just this result.

“ . . . each rural incumbent LEC not subject to price cap regulation must exclude from its local switching interstate revenue requirement any high-cost support attributable to DEM weighting” (cc: 96-45, Order On Reconsideration, released July 10, 1997).<sup>4</sup>

Also, the Act does not envision that competitors will have artificial economic incentives to enter local markets (i.e. the USF per customer will be overstated by using DEM) should switching costs be portable. In fact, the Commission has vowed not to let this happen.

“ . . . we agree with the ILECs that we should limit the ability of competitors to make decisions to enter local markets based on artificial economic incentives created under the modified existing mechanism” (para. 173).

The Commission Needs to Jointly Establish with the Individual States Mechanisms to Fund Universal Service that are “Specific, Predictable, and Sufficient”

The Commission's and states existing programs promoting universal service have in most part been successful. These programs have provided basic telephone service to nearly every community in Alaska with twenty-five (25) or more people.<sup>5</sup> The Telecommunications Act of 1996 (the Act) envisions even further progress in making basic service available to low income households and making advanced telecommunications services available in rural and high cost areas (Section 254 (b) (3)). To accomplish this the Act provides for “specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service” (Section 254 (b) (4)). Unfortunately, the Order creates “uncertainty” for rural carriers since the Commission and the individual states have not jointly established universal service funding mechanisms that are “specific, predictable, and sufficient”.

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<sup>4</sup> Exclusion from interstate access of the DEM weighting results in an allocation that is based on the DEM formula that counts each local minute twice and each interstate toll minute only once.

<sup>5</sup> While most rural communities have telephone service the rural household penetration rate in Alaska is often less than 70 per cent.

The Order (para. 835) provides funding of only twenty-five percent (25%) of the costs of universal service under a new “proxy” model based system.<sup>6</sup> Who is going to fund the other seventy-five (75%)? The Alaska Public Utilities Commission in its petition states:

“... Alaska would need to recover \$33 M from about 350,000 access lines statewide<sup>7</sup>. This amounts to approximately \$8 per access line per month additional assessment from all Alaskans in order to pay for Alaska’s 75% residual contribution to the universal service mechanism. Alaskans overall would pay about \$100 per year out of their average per capita income of \$17,610 in order to fund universal service. No other state experiences a comparable per capita assessment, though some Insular areas pay over \$144/line/year and some high-cost states would pay over \$24/line/year. In comparison, the 75% per capita payment for all of the states on average would be \$.38 per access line per month” (APUC Petition, page 8).<sup>8</sup>

The Alaska Public Utilities Commission further states:

“By only funding 25%, the FCC will fail to meet the requirement under the Act that funding be sufficient”(APUC Petition, page 9).

“The APUC therefore respectfully requests that the FCC reverse its decision to fund only 25% of forward-looking cost model results net the revenue benchmark”(APUC Petition, page 10).

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<sup>6</sup> The Order however does not disclose what “proxy” model may be used in Alaska. Without access to the “proxy” model there is no way to determine whether there will in fact be sufficient universal service support assuming 100% of the needed support will be funded.

<sup>7</sup> The \$33 M excludes \$11 M in interstate DEM assistance (NECA June 9, 1997 correspondence).

<sup>8</sup> These quotations are taken from a “draft” of the APUC’s petition that was circulated at its 7/9/97 public meeting.

The Act provides for there to be “. . . specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service” (Section 254(b)(5)). The Commission clearly did not have the participation and input of the State of Alaska or its Commission in arriving at the decision to use a “proxy” model or to fund only “25%” of the cost of universal service. The APUC has said that 25% funding fails to meet the requirement under the Act that funding be sufficient. The Commission’s Chairman is quoted as follows:

“Regarding universal service, Hundt said that it is imperative to work with the states in order to “strike the right balance” regarding the size of the universal service fund and distribution of money. He said the FCC took a moderate step with respect to universal service because “no one right now can represent a true consensus on the size of the fund.” (Washington Watch for May 22, 1997).

The Commission has said:

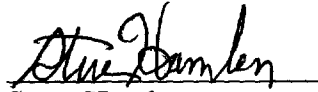
“. . . the Commission has not yet (emphasis added) exercised its authority to assess universal service contributions from intrastate and interstate revenues and to require any carrier to seek state authority to recover a share of its contribution through intrastate rates. In addition, we restate that the Commission has committed to funding 25 percent (emphasis added) of the necessary support for carriers serving high cost areas based on the federal-state partnership anticipated by the Act under which the Commission and the states together will fund the entirety of universal service support mechanisms.” (cc: 96-45, Order On Reconsideration, released July 10, 1997).

What we know is that no one knows what the size of the fund will be; that the Commission has yet to exercise its authority; and that the Commission says that it will fund 25 percent of an unknown amount and that the Alaska Public Utilities Commission says that this is not enough despite the Commission’s assertion that it is enough. Is this what Congress intended when it said that, “There should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service”. (Section 254 (b)(5))?

### Summary

While considerable work has been done to implement the Act the Commission's Order should be postponed until it has: (1) completed the reform of its Part 36 jurisdictional cost separations rules; (2) jointly established with the individual states the mechanisms to fund universal service that are "specific, predictable, and sufficient"; and (3) considered the concerns raised by the Alaska Public Utilities Commission (APUC), National Telephone Cooperative Association (NTCA) and others petitioning for reconsideration. The Commission needs to assemble all of the parts and pieces jointly with the states of the Act's universal service programs before it launches a program that may undermine the very objectives it is attempting to achieve. The Commission and the states have not completed the tasks that the Act requires.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Steve Hamlen", written over a horizontal line.

Steve Hamlen

President, United Utilities, Inc.

## GVNW White Paper

GVNW has been asked to provide comments regarding the allocation of central office costs using the current procedure of dial equipment minutes (DEM) as opposed to using switched minutes of use (SMOU). In order to create order to the discussion, some back ground to the issue is needed and it began some years ago.

### OVERVIEW

The Telecommunications Act of 1996 (TA 96) went to great lengths to identify and eliminate implicit subsidies. The use of DEM in calculating jurisdictional costs for digital switches could be considered an implicit subsidy and SMOU could more closely allocate costs and the use of SMOU is supportable in some instances.

### HISTORY

In the early 1980's, the FCC opened an investigation into the allocation of telephone plant costs with the establishment of a Federal-State Joint Board in Docket 80-286. The subscriber plant freeze and the transition toward a 25% basic allocator were two COE related changes recommended by the Joint Board and adopted by the FCC in 1982 and 1983. It should be noted that at that time the Joint Board did not make any recommendations for changes to the allocation of COE related investments.

On May 12, 1986 the Joint Board in CC Docket 80-286 released an order inviting comments and request for data regarding the appropriateness of the jurisdictional allocation procedures for Central Office Equipment (COE). The Joint Board recommended and the FCC subsequently adopted, a revision to the local switching procedures. The new procedures replaced the obsolete and antiquated traffic sensitive/non-traffic sensitive (TS/NTS) distinctions and respective toll-weighted DEM And frozen SPF.

- ◆ TS/NTS elimination (switching from 1988 until the FCC recent order on access charge reform is considered traffic sensitive). The Joint Board at that time found that the TS/NTS distinction was no longer necessary because the functions of the digital switch and electronic switching equipment, when compared to other older technology, makes any distinction arbitrary. The FCC agreed and eliminated the distinction.
- ◆ Consolidation of Part 67 COE local switching categories into a single category. The logic in that action was that the single switching category reflects the fact that digital switching equipment performs multiple functions related to toll and local, making it difficult to identify and categorize by various switching functions.
- ◆ Provided an additional interstate assignment to small companies with high costs by weighting the DEM based upon the number of lines.

When the COE related comment phase was completed in 1986, the Joint Board recommended the use of measured DEM in April 1987, to allocate COE category 3 local switching costs. The plan called for a five year phase-in beginning in 1988. The FCC also indicated that the Joint Board should seek further comment on the use of other relative use factors for some or all of the investment in COE category 3.



Continuing the process, the Joint board released an order inviting comments and request for data on June 26, 1997 on the separations process for category 3, local switching equipment. In summarizing the comments regarding DEM and SMOU are the following observations:

DEM. The dial equipment minute is a usage measurement of the minutes of holding time of the originating and terminating local switching equipment. This means that for an intraoffice call (local) the minutes of use are counted twice; once for originating and once for terminating. Measured DEM is the current local switch allocator prescribed in Part 36 for LEC's.

SMOU. Switched Minutes of Use is a usage based allocator that counts each minute of use, whether toll or local. In other words SMOU can be defined as a measurement of dial office switching equipment for jurisdictional separations where minutes of use are recorded for each toll call and each local (intraoffice) call. The logic is that neither type of call is switched more than once.

The difference between DEM and SMOU is that DEM counts the usage of intraoffice calls twice, where SMOU only counts each minute of a call once. The DEM procedure is an antiquated carry over from prior years with other than digital technology when step by step and cross bar switching was prevalent. Contrary to step by step and some cross bar switching, digital switching has only one path to complete a call, regardless as to whether the call was toll or local.

While we won't go into all of the pros and cons of the arguments made by supporters and detractors of SMOU; In the Joint Board report in Docket 80-286, released June 26, 1997, the Joint Board remarked at B.5 "..... We recognized that as indicated by comments, the use of SMOU may be appropriate for digital switches."

During the Joint Board period of comments several other allocators were proposed by commentators. Those included:

- ◆ Switched Minutes of Use (SMOU)- a usage based allocator that counts each minute of use for local and toll only once.
- ◆ Peak Period Usage- considers the traffic flow at peak and off peak periods.
- ◆ Call Attempt and Minutes (CAAM)- considers the equipment associated with call attempts and duration.

The FCC ultimately adopted the weighted DEM allocation approach. However that did not suggest that other methods were not superior to the DEM.

We are of the opinion that due to the elimination of implicit subsidies as required by the telecommunications act, that the double counting of local minutes for digital switches could be construed a subsidy to interexchange carriers because the process understates interexchange switch allocations. The current practices (DEM) also could cause an over statement of local switching cost allocation which has the potential of increasing USF funding requirements, depending upon the Benchmark rates established by the state commissions.

We also believe that the double counting of local minutes for DEM, as defined in part 36 of the FCC rules may not be applicable to digital switching.:

Part 36.125 (2) (b) : Beginning January 1, 1993, Category 3 investment for study areas with 50000 or more access lines is apportioned on the basis of relative equipment use, (DEM) i.e., the

minutes of use of holding time of the originating and terminating local switching equipment.....(emphasis added).

Part 36.125 (2) ( f ) : For study areas with fewer than 50000 access lines, Category 3 investment is apportioned by the application of an interstate allocation factor that is the lessor of either .85 or an amount that follows: Beginning January 1, 1993, the amount will equal the DEM factor specified in 36.125 ( b ) multiplied by a weighting factor.....(emphasis added)

The point of our reference to part 36 rules is that the rule for DEM requires **relative use** in determining the DEM. Historically step by step and **some** cross bar equipment generally used two different types of equipment to complete a local call. Today's digital technology uses only one path to complete a **local or toll call**. If local minutes are counted twice and toll minutes are only counted once then the local DEM minutes of use are not relative to the toll use of switching equipment.

We have calculated the factor and cost changes that would occur to a sample company using SMOU compared to DEM.

#### DIAL MINUTES OF USE CALCULATION

Sample Company		
<u>Jurisdiction</u>	DEM MINUTES	SMOU MINUTES
INTERSTATE	13267651	13267651
INTRASTATE	25914417	25914417
LOCAL	46216869 **	23108434
TOTAL	85398937	62290502

\*\* CALCULATION - originating minutes were 23108434 \* 2= total local DEM minutes

#### DEM FACTOR CALCULATION

Sample Company		
<u>Jurisdiction</u>	<u>DEM Factor</u>	<u>SMOU Factor</u>
INTERSTATE	.15536	.21299
INTRASTATE	.30345	.41603
LOCAL	.54119**	.37098

\*\*CALCULATION - 46216869 / 85398937= DEM factor of .54119

## CHANGE IN REVENUE REQUIREMENT

### Sample Company Revenue Requirements

<u>Jurisdiction</u>	A	B	Difference <u>B-A</u>
	<u>DEM Factor</u>	<u>SMOU Factor</u>	
TOTAL INTERSTATE	1561202	1602912	41710
CCL	1199189	1197538	
TOTAL INTRASTATE	1961566	2040055	78489
CCL	1259816	1258702	
TOTAL LOCAL	1452256	1332262	(119994)

## SUMMARY

The advocates of DEM may argue that because a local to local call uses two line ports ( one originating and one terminating) that local minutes should be counted twice for local DEM. While the premise is true that two line ports are used, we would point out that a similar argument can be made for a toll call (either originating or terminating) . A toll call uses a trunk port and a line port. In other words a port is a port. The previous arguments are easily refutable based upon the FCC comments in the access reform docket 96-292, first report and order, dated May 16, 1996.

Para. 124 In the NPRM we observed that a significant portion of local switching costs may not vary with usage. For example, the cost of line-side ports appears to vary with the number of loops connected to the switch, not the level of traffic over the loops. We tentatively concluded that it is more reasonable and economically efficient to recover costs of equipment dedicated to individual customers, such as line-side ports and trunk ports associated with dedicated transport, through flat rated charges.....

Para: 125 We conclude that, consistent with the principles of cost-causation and economic efficiency, NTS costs associated with local switching should be recovered on a flat rated rather than a usage sensitive basis.....

Para: 127 We conclude that the costs of dedicated transport (including the trunk card and DS1/voice-grade multiplexers, if needed) should be recovered through a flat-rated basis because these costs are NTS in nature.....

While the FCC made a point to remark that the flat-rated NTS costs would be allocated based upon DEM, and that the FCC did not need approval from the Joint Board to change part 69 to use DEM for pricing flat rated services, the logic of the situation is inescapable. Only equipment considered traffic sensitive should be apportioned using factors determined by the **relative minutes** of the call types that the equipment processes. We are not saying the FCC shouldn't use relative jurisdictional minutes to allocate NTS investment. In fact the alternative jurisdictional allocation of traffic sensitive **digital** central office investment could be on SMOU and not DEM because all call types are switched once only. The FCC could still elect to separate NTS on the same basis.

END